

offshore to a depth of 80–100 fm by the end of April 2008. No trips would be conducted July 1–October 31, 2007, because of warm water temperatures and a typical absence of fish.

Research trips would be conducted aboard the F/V Jessica Marie (permit # 146901, hull # MA9252KR), owned by Mr. Bowen. Each net panel for this study would be 300 ft (91.4 m) long and made of 30 gauge webbing. Seven nets each of 10–inch (25.4–cm), 12–inch (30.5–cm), and 14–inch (35.6–cm) mesh would be combined into a single 21–net “string.” Net height for the different mesh panels would be coordinated to be within 1 inch (2.5 cm) of each other. Two such strings would be used, for a total of 42 nets. Each string would be fitted with 85–lb (38.5–kg) lead line, 3/8–inch (0.95–cm) polypropylene float line with floats every 8 ft (2.4 m), and tied down to stand 30 inches (76 cm) above the bottom. The strings would also be fitted with temperature loggers, 1,100–lb (498.9–kg) breakaway links, and “pingers” to help minimize effects on marine mammals.

This gear configuration is expected to be much less efficient than the current regulatory limit of up to 150 300–ft (91.4–m) nets of 10–inch (25.4–cm) mesh. It is expected that most trips would result in catches well below the trip limit. Specific trips could occur when the trip limit would be reached or exceeded after hauling only one of the two strings. To prevent excess discards and to ensure that all of the experimental gear can be hauled during each trip, the applicant has requested the exemption outlined above.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: January 17, 2007.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 122106A]

#### Taking of Marine Mammals Incidental to Specified Activities; On-ice Geotechnical Operations in the Beaufort Sea

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of application and proposed incidental take authorization; request for comments.

**SUMMARY:** NMFS has received an application from ConocoPhillips Alaska, Inc (CPAI) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting on-ice geotechnical operations on the Outer Continental Shelf (OCS) and State of Alaska leases in the U.S. Beaufort Sea in spring 2007. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to CPAI to incidentally take, by harassment, small numbers of ringed seals for a limited period during the proposed project period.

**DATES:** Comments and information must be received no later than February 21, 2007.

**ADDRESSES:** Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here. The mailbox address for providing email comments is [PR1.122106A@noaa.gov](mailto:PR1.122106A@noaa.gov). Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the first contact person listed here and is also available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext 137 or Brad Smith, Alaska Region, NMFS, (907) 271–5006.

**SUPPLEMENTARY INFORMATION:**

## Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of activities not pertinent here, the MMPA defines “harassment” as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

## Summary of Request

On November 29, 2006, NMFS received an application from CPAI for the taking, by harassment, of small number of ringed seals (*Phoca hispida*) incidental to conducting geotechnical portions of a site clearance survey just

north of Cross Island, in spring 2007. The site clearance location will be on the OCS and State of Alaska leases of the U.S. Beaufort Sea. The proposed operation will be active 24 hours per day and use a conventional geotechnical drilling rig. The project is anticipated to require about two weeks to complete between February and April, 2007, depending on weather and other operational factors.

The purpose of the site clearance is to confirm that the seafloor has soil and surface characteristics that will support the safe set-down of a drill rig, and long-term occupation of the site by such a vessel.

#### Description of the Activity

The proposed geotechnical operation will use a small drill rig that runs either 5-ft (1.5-m) long augers for soil samples or 10-ft (3-m) jointed pipe to recover core samples. The drill rig will use cone penetrometers for cone penetration tests. Sea water circulation and occasionally mud systems will be used on the drill rig to stabilize the hole. This work is part of an overall shallow hazards investigation of the project.

The proposed geotechnical program will consist the following components:

**Soil Borings:** Four soil borings will be drilled in the area of the exploration well location. One of these borings will be 100 - 120 ft (30.5 - 36.6 m) deep, and centered a proposed rig set-down location. Three additional borings, all 60 ft (18.3 m) in depth, will be phased 120° around the primary boring, and located on radials of 100 m (328 ft). Soil samples will be taken in all borings at 3-ft (0.9-m) intervals down to 30 ft (9 m), and at 5-ft (1.5-m) intervals between 30 and 60 ft (9 - 18 m).

**Cone Penetration Test (CPT):** CPTs will be taken at up to 6 locations within a proposed rig footprint, and at up to 10 additional locations outside the footprint. The CPTs will be advanced at approximately 4 ft (1.2 m) per minute. It is anticipated that the CPTs will not be advanced beyond 20 ft (6.1 m), in the event refusal is not encountered prior to the point.

**Seafloor Video:** Seafloor video will be recorded from a camera lowered through holes drilled in the ice at selected locations. This coverage will be directed mainly at a proposed rig footprint area.

**Support and Logistics:** The geotechnical field program will be supported by rolligons, which has minimum impact on the sea ice and does not require building an ice road. The rolligon option is further preferred, as on-site work can be carried out continuously using 2 12-hour shifts per

day, and the work period is not daylight or particularly weather dependant.

The geographic region of the proposed geotechnical activity encompasses 2 13 km<sup>2</sup> (5 mi<sup>2</sup>) areas in the south central Alaska Beaufort Sea on the fast ice. The region is about 3 miles (4.8 km) north of Cross Island at approximately 147°57' W and 70°32' N. There will also be a sea ice route directly from Deadhorse to the site, which will be about 24 km (15 miles) long and 0.01 km (35 ft) wide. The closest Eskimo village to the site clearance location is Nuiqsut, which is over 60 miles (97 km) away. Water depths in the proposed project area are typically less than 60 ft (18.2 m).

Field operations may begin on February 1, 2007, and be completed no later than April 30, 2007. However, CPAI will try to complete work prior to the ringed seals pupping season, which starts around March 15. It is estimated that approximately 14 working days on site will be required to complete the geotechnical operations.

#### Description of the Marine Mammals Potentially Affected by the Activity

Ringed seals are the only species of marine mammal that may be present in the proposed project area during the site clearance period. Ringed seals are not listed under the Endangered Species Act (ESA) or designated as depleted under the MMPA. Other marine mammal species under NMFS' jurisdiction that seasonally inhabit the Beaufort Sea, but are not anticipated to occur in the project area during site clearance operations, include the bowhead whales (*Balaena mysticetus*), beluga whales (*Delphinapterus leucas*), bearded seals (*Erignathus barbatus*), and spotted seals (*Phoca largha*). While some of these species begin to enter Beaufort Sea off Point Barrow from the Chukchi Sea during April, the project area is over 160 nm (296 km) east of Point Barrow, thereby making it highly unlikely these species would occur in the project area during the proposed operations. Polar bears (*Ursus maritimus*) also frequent in the Beaufort Sea, but they are not addressed in this application because they are managed by the U.S. Fish and Wildlife Service (FWS). CPAI is applying for an IHA for the incidental take of polar bears from the FWS.

Ringed seals are widely distributed throughout the Arctic basin, Hudson Bay and Strait, and the Bering and Baltic seas. There is no reliable worldwide population assessment for ringed seals, however, it is estimated to be in the millions (Reeves *et al.*, 1992).

Ringed seals inhabiting northern Alaska belong to the subspecies *P. h. hispida*, and they are year-round

residents in the Beaufort Sea. A reliable estimate for the entire Alaska stock of ringed seals is currently not available. A minimum estimate for the eastern Chukchi and Beaufort Sea is 249,000 seals, including 18,000 for the Beaufort Sea (Angliss and Outlaw, 2005). The actual numbers of ringed seals are substantially higher, since the estimate did not include much of the geographic range of the stock, and the estimate for the Alaska Beaufort Sea has not been corrected for animals missed during the surveys used to derive the abundance estimate (Angliss and Outlaw, 2005). Estimates could be as high or approach the past estimates of 1 - 3.6 million ringed seals in the Alaska stock (Frost, 1985; Frost *et al.*, 1988).

During winter and spring, ringed seals inhabit landfast ice and offshore pack ice. Seal densities are highest on stable landfast ice but significant numbers of ringed seals also occur in pack ice (Wiig *et al.*, 1999). Seals congregate at holes and along cracks or deformations in the ice (Frost *et al.*, 1999). Breathing holes are established in landfast ice as the ice forms in autumn and are maintained by seals throughout winter. Adult ringed seals maintain an average of 3.4 holes per seal (Hammill and Smith, 1989). Some holes may be abandoned as winter advances, probably in order for seals to conserve energy by maintaining fewer holes (Brueggeman and Grialou, 2001). As snow accumulates, ringed seals excavate lairs in snowdrifts surrounding their breathing holes, which they use for resting and for the birth and nursing of their single pups in late March to May (McLaren, 1958; Smith and Stirling, 1975; Kelly and Quakenbush, 1990). Pups have been observed to enter the water, dive to over 10 m (33 ft), and return to the lair as early as 10 days after birth (Brendan Kelly, pers comm to CPA, June 2002), suggesting pups can survive the cold water temperatures at a very early age. Mating occurs in late April and May. From mid-May through July, ringed seals haul out in the open air at holes and along cracks to bask in the sun and molt.

The seasonal distribution of ringed seals in the Beaufort Sea is affected by a number of factors but a consistent pattern of seal use has been documented since aerial survey monitoring began over 20 years ago. Recent studies indicated that ringed seals showed a strong seasonal and habitat component to structure use (Williams *et al.*, 2006), and habitat, temporal, and weather factors all had significant effects on seal densities (Moulton *et al.*, 2005). The studies also showed that effects of oil and gas development on local distribution of seals and seal lairs are no

more than slight, and are small relative to the effects of natural environmental factors (Moulton *et al.*, 2005; Williams *et al.*, 2006).

#### **Potential Effects on Marine Mammals and Their Habitat**

The proposed on-ice geotechnical operations have the potential to disturb and temporarily displace some ringed seals within the proposed project area. Incidental take may result from short-term disturbances by noise and physical activities associated with soil borings, CPT, and rolligon supported support and logistics activities. Pup mortality could occur if any of these animals were nursing and displacement were protracted. However, it is unlikely that a nursing female would abandon her pup given the normal levels of disturbance from the proposed activities, potential predators, and the typical movement patterns of ringed seal pups among different holes. Seals also use as many as four lairs spaced as far as 3,437 m (11,276 ft) apart. In addition, seals have multiple breathing holes. Pups may use more holes than adults, but the holes are generally closer together than those used by adults. This indicates that adult seals and pups can move away from site clearance activity.

All anticipated takes would be Level B harassment, involving short term, temporary changes in behavior or displacement by ringed seals. The number of seals estimated to be taken is calculated based on the most recent density data obtained during ringed seal surveys conducted within the geographic area of the planned operation. Moulton *et al.* (2002) reported that ringed seal densities on landfast ice of Alaskan Beaufort area range from 0.39 - 0.63 seal/km<sup>2</sup>.

The size of the proposed project area is 26 km<sup>2</sup> plus 0.32 km<sup>2</sup> for the travel corridor between the site and Deadhorse with water depths greater than 3 m (9.8 ft) below the sea ice. Area where water depths less than 3 m (9.8 ft) below sea ice was excluded from the calculation since ringed seals typically do not occur in these shallow areas (Moulton *et al.*, 2002). The length of the travel corridor associated is about 16 km (10 mi) and the calculation for its width was doubled (70 ft or 200 m) to account for adjustment of the corridor during the program due to any changes in ice condition. Therefore, it is estimated that between 10 - 17 ringed seals could be taken by Level B harassment as a result of the proposed geotechnical operations. This estimated take number represents less than 0.004 - 0.007 percent of the ringed seal population (estimated minimum 249,000 seals) in the eastern

Chukchi and Beaufort seas area. The actual take is likely to be lower as NMFS proposes to require mitigation and monitoring measures to be incorporated in the proposed action. No take by Level A harassment (injury) or death is expected or authorized.

The proposed geotechnical operation is not expected to cause any permanent impact on habitat and the prey used by ringed seals. All surface activities will be on sea ice, which will breakup and drift away following spring breakup. Any spills on the ice would be small in size and cleaned up before completing the operations. Similarly, all materials from the camp and drilling activities will be removed from the site before completion of operations. Drilling will have a negligible impact on the seafloor, since the bore holes will be small and widely spaced, and they will naturally fill in over time due to sediment movement by currents. The operation should have no effect on ringed seal prey species since most disturbances will be on sea ice. Areas containing ice conditions suitable for lairs will be avoided by the rolligons to prevent any destruction of the habitat.

#### **Potential Effects on Subsistence**

The primary subsistence village in the region is Nuiqsut, which is over 60 miles (97 km) away from the proposed project area. Most seal hunting by the village is off the Colville river Delta, between Fish Creek to the west and Pingok Island to the east (Fuller and George, 1997). Seal hunting predominately occurs in the open water during summer, when seals are more readily accessible from small boats (Fuller and George, 1997). In addition, almost all subsistence seal hunts occur during June through August. If a subsistence hunter is encountered in the project area, action will be taken to divert the rolligon away from the hunter.

In addition, CPAI will meet with Nuiqsut representatives before commencing geotechnical operations in 2007. The meeting(s) will serve to fulfill the MMPA Plan of Cooperation requirement. The proposed operations will be modified, where possible and practical, to reflect the concerns of the villages and hunters. Therefore, the proposed geotechnical operations should have no significant affect on subsistence hunting.

#### **Mitigation and Monitoring**

All activities will be conducted as far as practicable from any observed ringed seal lairs. Upon commencement of the on-ice geotechnical project, CPAI will establish a route along the proposed

travel corridor and work areas to discourage ringed seals from building lairs within the corridor later. An experienced Inupiat hunter will be hired to serve as a marine mammal observer (MMO). The MMO would be used to visually locate potential lairs and breathing holes in the travel corridor and work areas where water depth exceeds 3 m (9.8 ft) under the ice. The MMO will ride in the lead rolligon. Locations will be flagged, Global Positioning System (GPS) coordinates taken and then delineated on a map.

On subsequent trips, rolligon drivers will use the map, pre-programmed GPS coordinates and/or flags to avoid potential lair habitat and breathing holes when traveling the corridor and work areas. The completed map will be provided to NMFS.

#### **Reporting**

If activities are conducted during the IHA coverage period, then a final report will be submitted to NMFS within 90 days of completing the geotechnical project.

#### **Endangered Species Act (ESA)**

NMFS has determined that no species listed as threatened or endangered under the ESA will be affected by issuing an incidental harassment authorization under section 101(a)(5)(D) of the MMPA to CPAI for this on-ice geotechnical project.

#### **National Environmental Policy Act (NEPA)**

The information provided in Environmental Assessment (EA) on the *Proposed OCS Lease Sale 202: Beaufort Sea Planning Area* prepared by the Mineral Management Service (MMS) in August 2006 led NMFS to conclude that overall oil and gas related seismic surveys within the lease sale area, where the proposed action is located, would not have a significant impact on the human environment. Therefore, an Environmental Impact Statement was not prepared. The proposed on-ice geotechnical operations discussed in this document are not substantially different from activities analyzed in the MMS 2006 EA, and a reference search has indicated that no significant new scientific information or analyses have been developed in the past year that would warrant new NEPA documentation.

#### **Preliminary Conclusions**

The anticipated impact of winter geotechnical operations on ringed seals is expected to be negligible for the following reasons:

(1) The proposed activity would only occur in a small area which supports a small proportion (<0.01 percent) of the ringed seal populations in the Beaufort Sea.

(2) Geotechnical operators will avoid moderate and large pressure ridges, where seal and pupping lairs are likely to be present.

(3) Mitigation and monitoring procedures such as using an experienced native hunter to conduct pre-operational survey and monitoring of ringed seal lairs and breathing holes within the proposed action area and travel corridor, mapping the travel corridor and work areas that are free of ringed seal lairs with GPS coordination, and establishing a rollington traveling route prior to the seal pupping season to discourage the use of these areas by seals during the pupping season, will be implemented.

As a result, NMFS believes the effects of on-ice geotechnical operations are expected to be limited to short-term and localized behavioral changes involving relatively small numbers of ringed seals. NMFS has preliminarily determined, based on information in the application and supporting documents, that these changes in behavior will have no more than a negligible impact on the affected ringed seal population within the proposed action area. Also, the potential effects of the proposed on-ice geotechnical operations during 2007 will not have an unmitigable adverse impact on subsistence uses of this species.

#### Proposed Authorization

NMFS proposes to issue an IHA to CPAI for conducting on-ice geotechnical operations in the U.S. Beaufort Sea, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of ringed seals; would have no more than a negligible impact on the affected ringed seal stock; and would not have an unmitigable adverse impact on the availability of ringed seals for subsistence uses.

Dated: January 16, 2007.

**James H. Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 111706C]

#### Incidental Take of Marine Mammals; Taking of Marine Mammals Incidental to Missile Launch Operations from San Nicolas Island, CA

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of issuance of a letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that a letter of authorization (LOA) to take three species of marine mammals incidental to missile launch operations from San Nicolas Island, CA (SNI) has been issued to the Naval Air Warfare Center Weapons Division (NAWC-WD), Point Mugu, CA.

**DATES:** This authorization is effective from February 3, 2007, through February 2, 2008.

**ADDRESSES:** The application, LOA, and Navy monitoring report are available for review in the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 or by contacting one of the individuals mentioned below (See **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead or Candace Nachman, NMFS, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture or kill marine mammals.

Authorization may be granted for periods up to five years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible

methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking incidental to target missile operations on San Nicolas Island, CA, were published on September 2, 2003 (68 FR 52132), and remain in effect until October 2, 2008.

Pursuant to these regulations, NMFS has issued an LOA to the NAWC-WD. Issuance of the LOA is based on findings made in the preamble to the final rule that the total takings by this project will result in only small numbers (as the term is defined in 50 CFR 216.103) of marine mammals being taken. In addition, given the implementation of the mitigation requirements contained in the LOA, the resultant incidental harassment will have no more than a negligible impact on the affected marine mammal stocks or habitats and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses. NMFS also finds that the applicant will meet the requirements contained in the implementing regulations and LOA, including monitoring and reporting requirements. This LOA will be renewed annually based on a review of the activity, completion of monitoring requirements and receipt of reports required by the LOA.

According to the draft technical report, the NAWC-WD performed a total of five missile launches between February and September 2006. Two Advanced Gun System (AGS) guided rounds were launched on 14 February; one Falcon rocket was launched on 6 April; and two AGS launches occurred on May 15, 2006. California sea lions were observed during four of five launches on all three launch dates. Northern elephant seals were observed during three launches on two dates. Harbor seals were observed during four launches on all three launch dates. Based on monitoring efforts between February and September 2006, the NAWC-WD estimates that approximately 295 sea lions, 13 harbor seals, and no elephant seals were affected by launch sounds. There was no evidence of injury or mortality during or immediately succeeding the launches for any pinniped species.